

12/08/06



TDR Program Overview

The American Farmland Trust reports that more than 60% of the land preserved through TDR easements in the United States is located in Montgomery County.

The Transfer of Development Rights (TDR) Program is unique among the farmland preservation tools available to the County because it represents a private-sector investment in farmland preservation and the rural economy. The program allows developers to increase residential density in designated receiving areas outside the Agricultural Reserve through the purchase of Transferable Development Rights from farmers. For every unit of density transferred (one TDR per five acres) into a designated receiving area, one development right is extinguished on a corresponding farm parcel. Developers purchasing TDRs provide income to the farmer that is often used for purchasing additional farmland, farm equipment, or estate planning.

TDR Receiving Capacity Deficiency and the Imbalance Between Supply and Demand

The purpose of the TDR program is to compensate farmers for the land equity they lost through the 1981 down-zoning that created the Agricultural Reserve. The full potential of this program has been realized only once in its 25-year history because of a general imbalance between sending capacity and receiving capacity. Although more than 9,600 TDRs have been sold and used in receiving areas, there are still more TDRs in the sending area than there is receiving capacity to absorb them. TDR receiving areas have consistently been planned at a 1:1 ratio in which every TDR sold from the sending area is used in a corresponding TDR site. Realistically, a receiving capacity ratio of 2:1, or two receiving sites for every one TDR in the sending area, is needed to counteract the problem of diminished receiving capacity. Receiving capacity at a given site can diminish through environmental regulation, landscape suitability, economic constraints or lack of use by the developer. Diminished receiving capacity depresses the demand for and market value of TDRs, and generally conflicts with the legislative intent of the TDR program.

The following chart illustrates TDR receiving capacity deficiency from 1988 through 2005, and the price per TDR from 1985 through 2006. The price drop for FY07 is a result of the national slowing of the economy and a building moratorium in Clarksburg.

TDR Receiving Capacity Deficiency, 1988-2005

	1988	1992	1997	1999	2005
Theoretical Maximum	17626	18318	19297	19297	←
minus protected/public properties	5523	6021	6889	6889	←
= Actual Sending Area Capacity	12103	12297	12408	12408	10199
minus TDRs on approved subdivision plans	3391	5359*	5972	5972	8077
= Sending Area & Floating TDRs	8712	6938	6436	6436	2122
Maximum Receiving Area Capacity	11121	11650	14427	14427	15336
minus loss through development activity other than TDRs	2245	2449	3588	3727	5213
= Actual Available Receiving Area Capacity	8876	9201	10839	10700	10123
percent loss	20%	21%	29%	38%	34%
Actual Available Receiving Area Capacity	8876	9201	10839	10700	10123
minus TDRs on approved subdivision plans	3391	5359*	5972	5972	8077
= Receiving Areas available	5412	3842	4867	4728	2046
Sending Area & Floating TDRs	8712	6938	6436	6436	2122
minus Receiving Areas available	5412	3842	4867	4728	2046
= Receiving capacity needed at 1:1 ratio	3300	3096	1569	1708	76
MNCPPC Reported Available TDRs	8069	6938	3298^	4332^	3443^
MNCPPC Reported Receiving Capacity	4501	3842	4867	4728	3052

Gross Acres
Calculation
(Method 1)

Parcel File
Calculation
(Method 2)

15928
-5920
10008 (+) 10389 (/2) = 10199

2005 Diminished Capacity at Varying Use Rates

2046	2046	2046
x 40%	x 50%	x 60%
818	1023	1228
2122	2122	2122
-818	-1023	-1228
1304	1099	894

Future Receiving Capacity Needed =

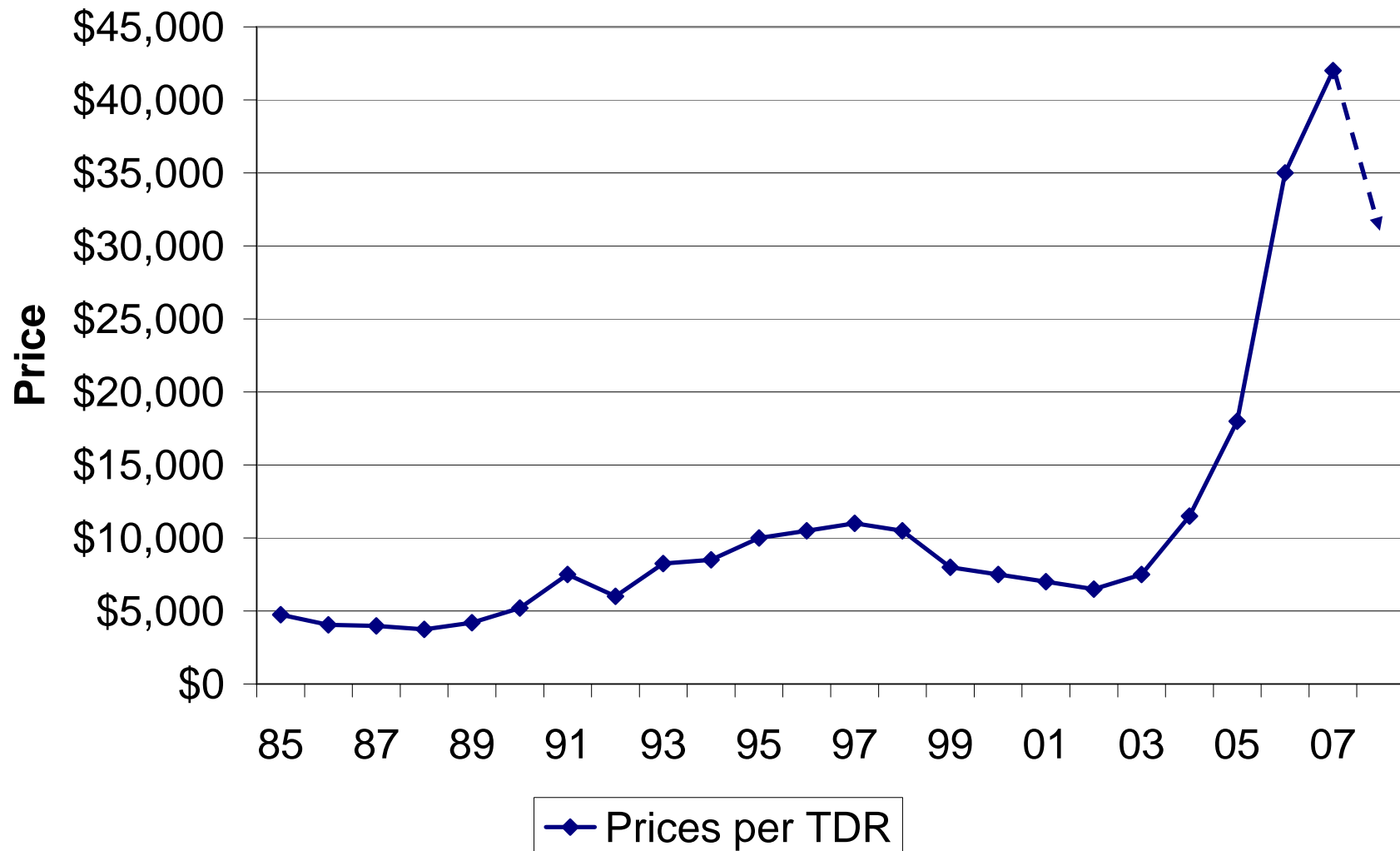
*approved & pending approval

^ Subtract 20% of reported number to account for development in RDT zone

Notable Events:

1. 1983: Limited Receiving Sites in Olney
2. 1987 TDR Lawsuit: Removal of Olney Pilot Program and start of Countywide TDR program
3. 1995: Clarksburg Master Plan creates 2,000 acres of RDT zone requiring 400 TDRs
4. 1998 MET Lawsuit requires 420 TDRs

TDR Prices Per Fiscal Year



TDRs Recorded versus TDRs Severed/Serialized

The administrative process for tracking TDRs is very complex, requiring tremendous staff time and resources to monitor and update. The charts below illustrate the relationship between TDRs that are severed/serialized versus TDRs that are recorded. TDRs are created by an easement when they are severed & serialized. Following this process, TDRs can be applied in designated receiving areas, at which point they are recorded in the County's land records. The difference between 10,160 TDRs severed/serialized and 9,669 TDRs recorded illustrates that "floating" TDRs can be purchased through brokers and held as a negotiable asset until applied to a receiving area.

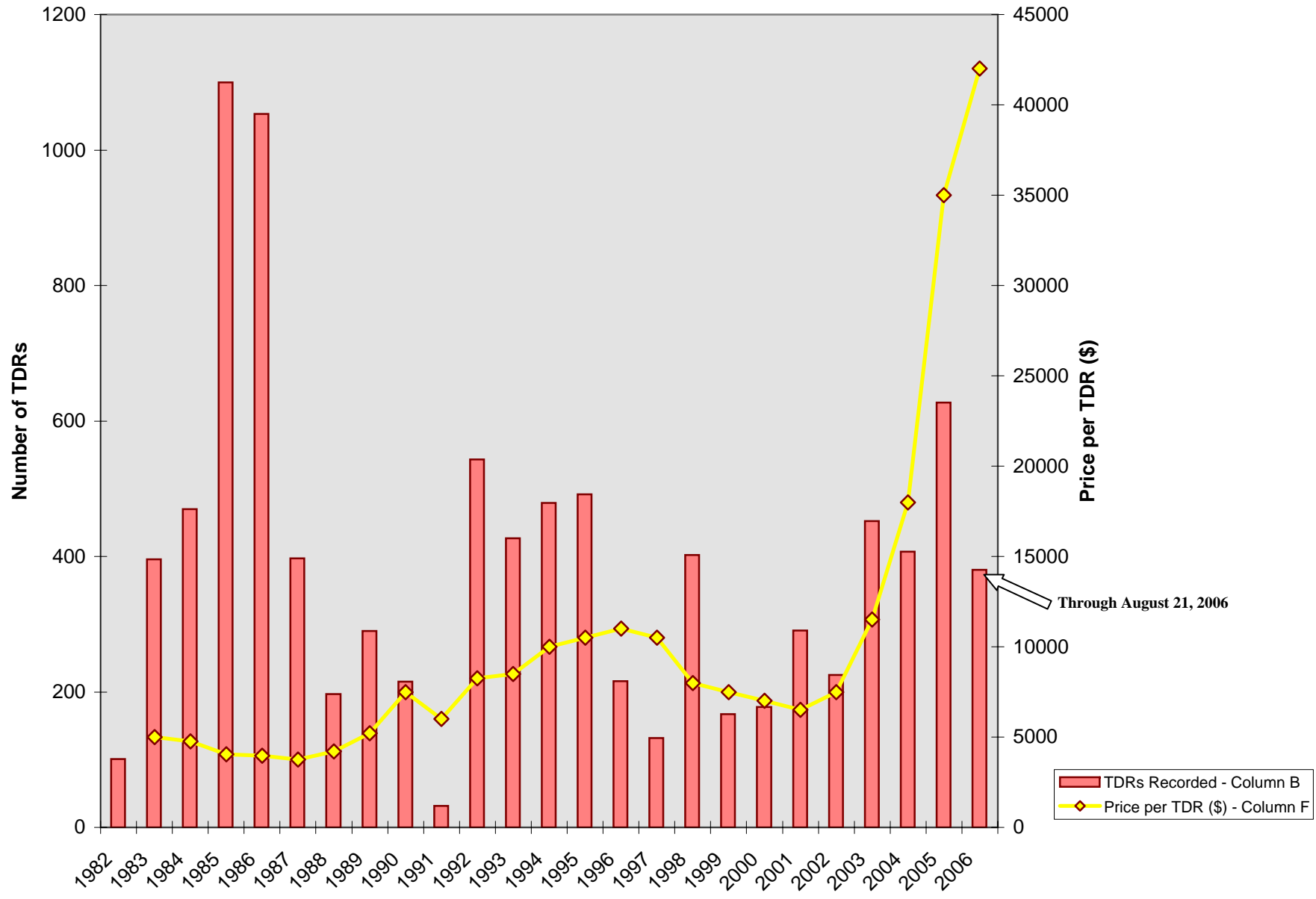
TDRs by Year Recorded								TDRs Approved by Fiscal Year						
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Year Recorded (Calendar Year)	Number of TDR's Per Year	Acres per year (Bx5)	Total TDRs Accumulated	Total Acres (Dx5)	(avg) Price per TDR (Fiscal Year)	TDRs per year times avg price (BxF)	Total TDR Recovered Equity based on avg price (Sum of BxF)	Fiscal Year	FY Acres by year	Total FY Acres (Sum of J)	FY TDRs severed-serialized (J/5)	Total FY TDRs Accumulated (Sum of J/5)	FY TDRs severed-serialized times Avg FY Price per TDR (KxF)	Total FY TDR Recovered Equity (Sum of KxF)
1982	101	505	101	505										
1983	396	1,980	497	2,485	5,000	1,980,000	1,980,000	FY83	1,115	1,115	223	223	1,115,000	1,115,000
1984	470	2,350	967	4,835	4,750	2,232,500	4,212,500	FY84	887	2,002	177	400	840,750	1,955,750
1985	1,100	5,500	2,067	10,335	4,050	4,455,000	8,667,500	FY85	8,535	10,537	1,707	2,107	6,913,350	8,869,100
1986	1,053	5,265	3,120	15,600	3,970	4,180,410	12,847,910	FY86	4,553	15,090	910	3,017	3,612,700	12,481,800
1987	397	1,985	3,517	17,585	3,750	1,488,750	14,336,660	FY87	4,634	19,724	926	3,943	3,472,500	15,954,300
1988	197	985	3,714	18,570	4,200	827,400	15,164,060	FY88	2,394	22,118	478	4,421	2,007,600	17,961,900
1989	290	1,450	4,004	20,020	5,200	1,508,000	16,672,060	FY89	1,012	23,130	202	4,623	1,050,400	19,012,300
1990	215	1,075	4,219	21,095	7,500	1,612,500	18,284,560	FY90	2,270	25,400	454	5,077	3,405,000	22,417,300
1991	32	160	4,251	21,255	6,000	192,000	18,476,560	FY91	845	26,245	169	5,246	1,014,000	23,431,300
1992	543	2,715	4,794	23,970	8,250	4,479,750	22,956,310	FY92	2,119	28,364	423	5,669	3,489,750	26,921,050
1993	427	2,135	5,221	26,105	8,500	3,629,500	26,585,810	FY93	2,174	30,538	434	6,103	3,689,000	30,610,050
1994	479	2,395	5,700	28,500	10,000	4,790,000	31,375,810	FY94	2,204	32,742	440	6,543	4,400,000	35,010,050
1995	492	2,460	6,192	30,960	10,500	5,166,000	36,541,810	FY95	3,381	36,123	676	7,219	7,098,000	42,108,050
1996	216	1,080	6,408	32,040	11,000	2,376,000	38,917,810	FY96	2,128	38,251	425	7,644	4,675,000	46,783,050
1997	132	660	6,540	32,700	10,500	1,386,000	40,303,810	FY97	929	39,180	185	7,829	1,942,500	48,725,550
1998	402	2,010	6,942	34,710	8,000	3,216,000	43,519,810	FY98	640	39,820	128	7,957	1,024,000	49,749,550
1999	167	835	7,109	35,545	7,500	1,252,500	44,772,310	FY99	763	40,583	152	8,109	1,140,000	50,889,550
2000	178	890	7,287	36,435	7,000	1,246,000	46,018,310	FY00	434	41,017	86	8,195	602,000	51,491,550
2001	291	1,455	7,578	37,890	6,500	1,891,500	47,909,810	FY01	307	41,324	61	8,256	396,500	51,888,050
2002	225	1,125	7,803	39,015	7,500	1,687,500	49,597,310	FY02	309	41,633	61	8,317	457,500	52,345,550
2003	452	2,260	8,255	41,275	11,500	5,198,000	54,795,310	FY03	1,718	43,351	343	8,660	3,944,500	56,290,050
2004	407	2,035	8,662	43,310	18,000	7,326,000	62,121,310	FY04	1,691	45,042	338	8,998	6,084,000	62,374,050
2005	627	3,135	9,289	46,445	35,000	21,945,000	84,066,310	FY05	3,542	48,584	708	9,706	24,780,000	87,154,050
2006	380	1,900	9,669	48,345	42,000	15,960,000	100,026,310	FY06	2,273	50,857	454	10,160	19,068,000	106,222,050

Number of TDRS by Acreage of Sending Parcel

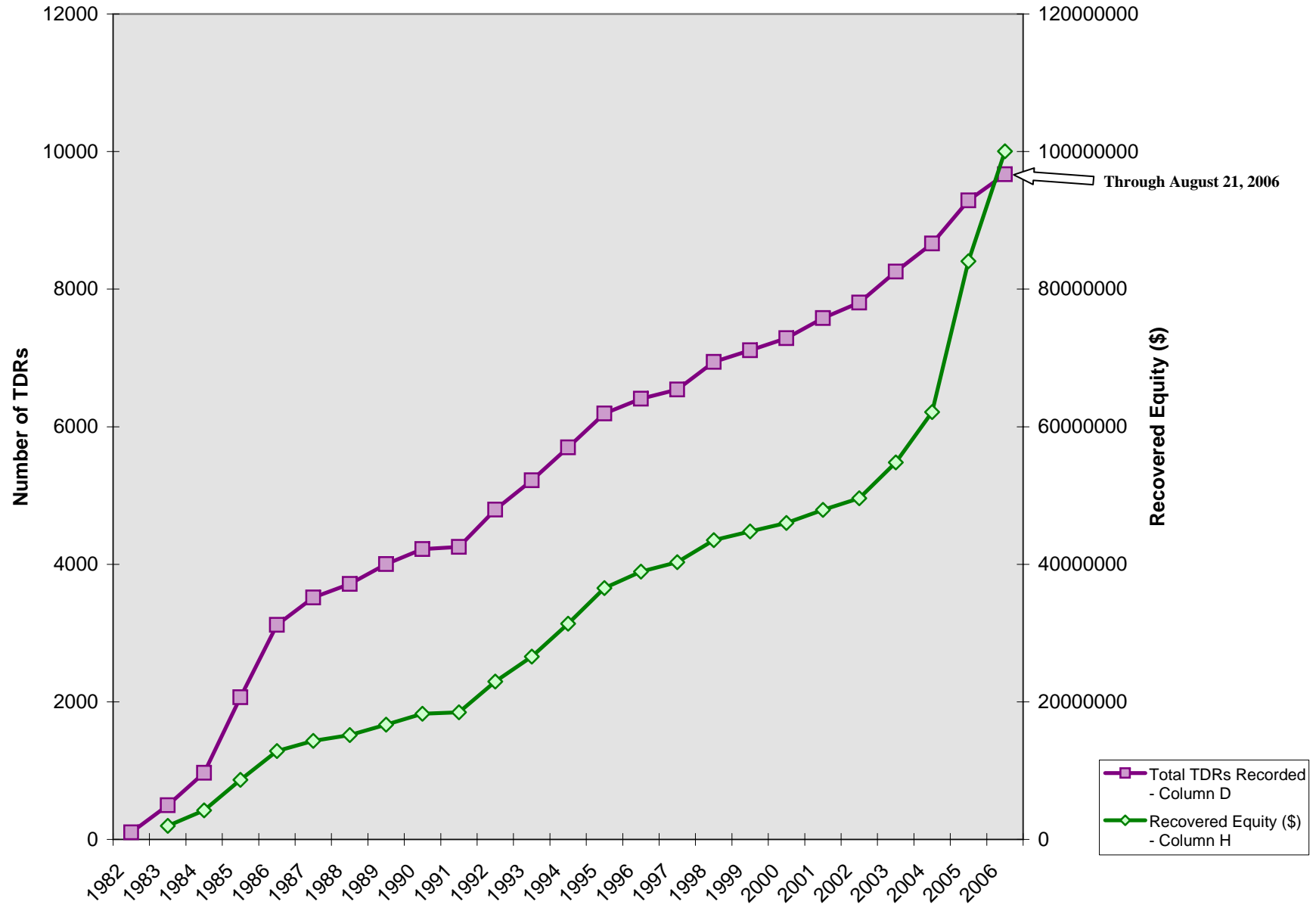
0-25 Acres	393
26-50 Acres	800
51-100 Acres	1421
101-150 Acres	1478
150-200 Acres	917
Greater Than 200 Acres	4660



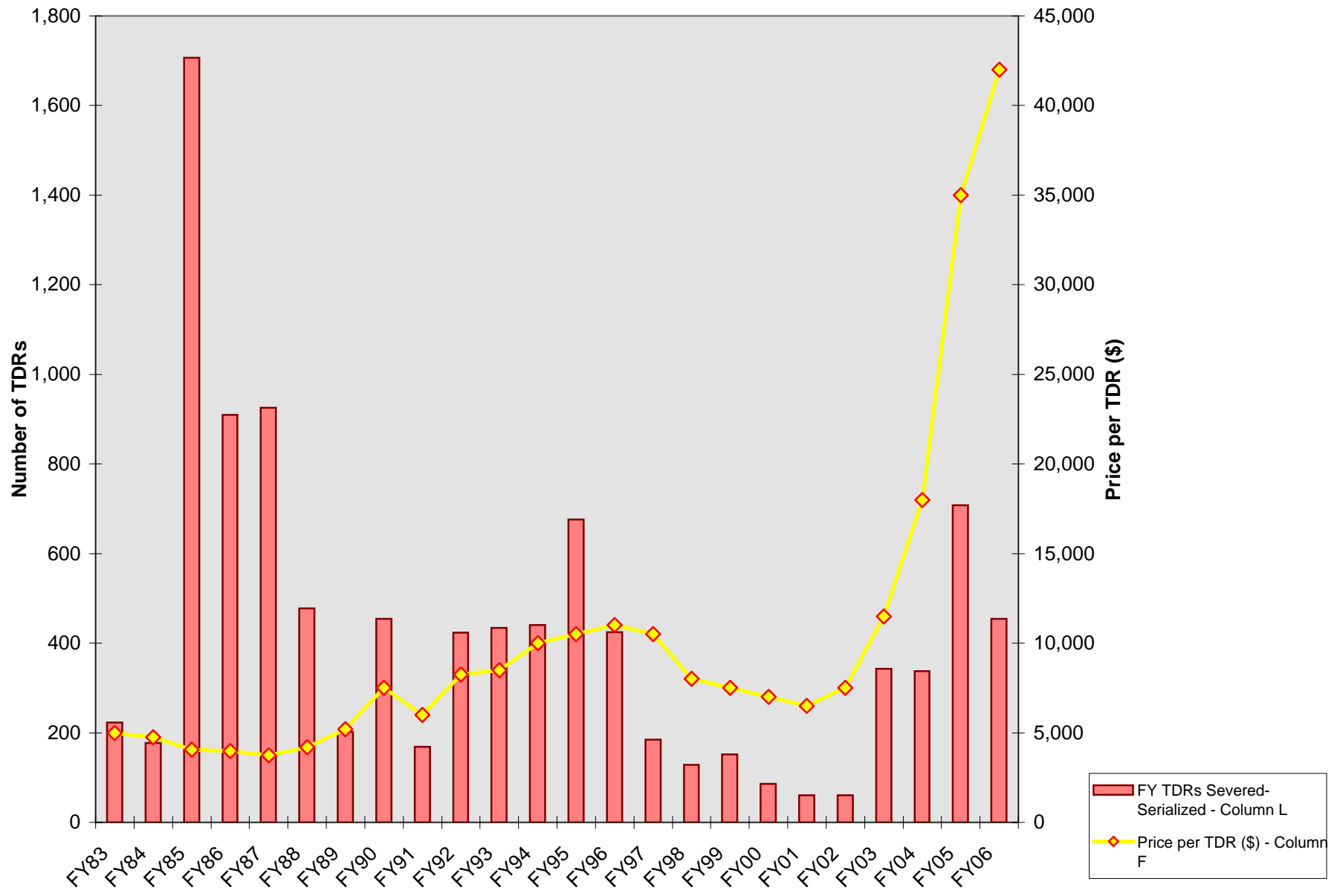
Number of TDRs Recorded by Year, and Price per TDR



Total Accumulated TDRs Recorded and Total Recovered Equity, by Year



TDRs Severed-Serialized, by Fiscal Year, and Price per Fiscal Year
Office of the County Attorney



Total Accumulated TDRs Severed-Serialized and Total Recovered Equity, by Fiscal Year
County Attorney's Office

